

ESTTA Tracking number: **ESTTA462218**

Filing date: **03/16/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054551
Party	Defendant Douglas Burda
Correspondence Address	DOUGLAS BURDA KONCEPT LLC 900 LAS VEGAS BOULEVARD SOUTH, UNIT 1009 LAS VEGAS, NV 89101 UNITED STATES dbb@konceptlaw.com
Submission	Opposition/Response to Motion
Filer's Name	Douglas Burda
Filer's e-mail	dbb@konceptlaw.com
Signature	/Douglas Burda/
Date	03/16/2012
Attachments	RESPONSE TO PETITIONERS MOTION TO COMPEL DISCOVERY.pdf (7 pages)(116300 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ANDREY PINSKY

Petitioner,

v.

Cancellation No. 92054551

DOUGLAS BURDA

Respondent.

**REGISTRANT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL
REGISTRANT TO COMPLY WITH DISCOVERY REQUESTS**

Respondent, Douglas Burda (Registrant) hereby requests that the Trademark Trial and Appeal Board (the Board) deny Petitioner's Motion to Compel Registrant to Comply with Discovery Requests.

REGISTRANT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL REGISTRANT TO COMPLY WITH DISCOVERY REQUESTS (Opposition) is supported by Registrant's BRIEF IN SUPPORT OF OPPOSITION, below, the papers on file with the Board in this matter, and any other matters properly before the Board.

BRIEF IN SUPPORT OF OPPOSITION

I. BACKGROUND & ARGUMENT.

Petitioner's well-documented pattern of transgression of the rules applicable to Petitioner and the Board's orders, including with respect to Petitioner's obligations prior to the time that Petitioner may lodge discovery requests and the myriad of Petitioner's misrepresentations and falsifications on record with the Board regarding same, firmly

establishes that Petitioner's inappropriate discovery requests are ill-timed and inadequate at best, and do not require Registrant's response until such time that Petitioner decides to follow the rules and the Board's orders.

For example, Petitioner has concocted a complex mailing and service scheme utilizing the limitations of Federal Express as a means of doing so., the details of which Registrant is not privy to. Recently, Petitioner attempted to deflect fault for Petitioner's non-compliance with the rules onto Petitioner's perceived limitations of the Federal Express delivery system. On December 30, 2011, Petitioner filed and served its "Declaration of Andrey Pinsky", claiming same to be its initial disclosures. Now, Petitioner has realized that Petitioner never served its initial disclosures but did serve document requests.¹ As a means of whitewashing Petitioner's actions, Petitioner has claimed that Petitioner served its initial disclosures. In support of same, Petitioner refers to a set of documents that Petitioner never served. See Petitioner's Motion to Compel, TTAB Case File Nos. 32-34 at 173-179. Notably, this set of documents is different from the document that Petitioner originally filed with the Board as its "initial disclosures." *Compare* Petitioner's Initial Disclosures, TTAB Case File No. 18 with Petitioner's Motion to Compel, TTAB Case File Nos. 32-34 at 173-179.

In response to Registrant's request to Petitioner for proper service of Petitioner's initial disclosures (and that Registrant was not obligated to answer discovery requests until Petitioner served its initial disclosures), Petitioner appears to have falsified a certificate of service of same, despite that Petitioner never served such initial disclosures. See Petitioner's Motion to Compel, TTAB Case File Nos. 32-34 at 179.

¹ Of course, Registrant is not obligated to respond to Petitioner's discovery requests until Petitioner serves Petitioner's initial disclosures on Registrant.

Registrant believes that Petitioner has unnecessarily elaborated on the limitations of the Federal Express delivery system at many times in the past, specifically so that Petitioner can rely on such a position presently, despite Petitioner's improper actions like those above.

On the basis of Petitioner's numerous transgressions (including without limitation those detailed above), Registrant filed its Motion for Default Judgment against Petitioner on February 15, 2012. On the same day, Petitioner filed its Motion to Compel. On March 9, 2012, Registrant filed its Motion to Suspend the Proceeding and for an Extension of Time to Respond to Petitioner's Motion to Compel on the basis that this response would be unnecessary if Registrant's Motion for Default were granted.

Unfortunately, Registrant's deadline to respond to Petitioner's Motion to Compel has arrived prior the Board's ruling on Registrant's Motion for Default and Registrant's Motion to Suspend the Proceeding and for an Extension of Time to Respond to Petitioner's Motion to Compel. As such, this Opposition is necessitated only by the timing of the developments in this proceeding, requiring that Registrant submit such responses or face an order to compel such responses, despite the unfounded nature of Petitioner's Motion to Compel and that Registrant believes no response to Petitioner's discovery requests is necessary until Petitioner actually serves its initial disclosures.

However, Registrant believes it to be in the best interest of the Board and the parties, in the spirit of judicial economy, to respond to Petitioner's discovery requests at this time without waiving any objection thereto at a future time. As such, Registrant has, as of the date of this Opposition, served Petitioner with Registrant's Responses to Petitioner's Document Requests. See Certificate of Service of same attached hereto as

Exhibit 1. Registrant would respectfully reserve Registrant's rights to supplement and/or withdraw all or part of Registrant's Opposition and Registrant's Responses to Petitioner's Discovery Requests based upon the Board's treatment of matters presently pending.

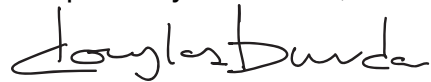
II. CONCLUSION.

For all of the forgoing reasons, Registrant respectfully requests that the Board deny Petitioner's Motion to Compel.

Registrant respectfully reserves the right to file additional papers with the Board regarding Petitioner's Motion to Compel.

March 16, 2012

Respectfully submitted,



Douglas Burda
KONCEPT® LLC
900 Las Vegas Boulevard South
Unit 1009
Las Vegas, Nevada 89101
Phone. (248) 217-0002
Email. dbb@konceptlaw.com
Attorney & Registrant

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ANDREY PINSKY

Petitioner,

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Cancellation No. 92054551

DOUGLAS BURDA

Respondent.

**EXHIBIT 1 TO REGISTRANT'S OPPOSITION TO PETITIONER'S MOTION TO
COMPEL REGISTRANT TO COMPLY WITH DISCOVERY REQUESTS**

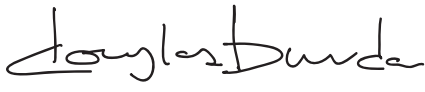
I hereby certify that a true and complete copy of the foregoing REGISTRANT'S RESPONSES TO PETITIONER'S DOCUMENT REQUESTS has been served on Andrey Pinsky by mailing said copy on March 16, 2011 via First Class Mail International, postage prepaid to:

ANDREY PINSKY
PINSKY LAW
45 SHEPPARD AVE EAST SUITE 900
TORONTO, ON M2N 5W9
CANADA

By: 
Douglas Burda

CERTIFICATE OF ELECTRONIC FILING

I certify that a true and complete copy of the foregoing REGISTRANT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL REGISTRANT TO COMPLY WITH DISCOVERY REQUESTS is being electronically transmitted to the Trademark Trial and Appeal Board, U.S. Patent and Trademark Office on March 16, 2012.

By: 
Douglas Burda

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing REGISTRANT'S OPPOSITION TO PETITIONER'S MOTION TO COMPEL REGISTRANT TO COMPLY WITH DISCOVERY REQUESTS has been served on Andrey Pinsky by mailing said copy on March 16, 2012 via First Class Mail International, postage prepaid to:

ANDREY PINSKY
PINSKY LAW
45 SHEPPARD AVE EAST SUITE 900
TORONTO, ON M2N 5W9
CANADA

By: 
Douglas Burda